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8 *California Department of Toxic Substances Control and the*  
9 *Toxic Substances Control Account*

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
12

13 **CALIFORNIA DEPARTMENT OF TOXIC**  
14 **SUBSTANCES CONTROL and the TOXIC**  
15 **SUBSTANCES CONTROL ACCOUNT,**

16 Plaintiffs,

17 v.

18 **EXXON MOBIL CORPORATION, et al.**

19 Defendants.  
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Case No. 2-21-cv-01739-KJM-JDP

**JOINT STATUS REPORT AND JOINT  
REQUEST TO EXTEND STAY OF  
LITIGATION BY 180 DAYS**

Courtroom: 3 – 15th Floor  
Judge: Hon. Kimberly J. Mueller  
Trial Date: None Set  
Action Filed: September 24, 2021

1 Pursuant to paragraph 5 of the Court's May 26, 2022, Order Staying Litigation for  
2 Settlement Negotiations (ECF #61), the undersigned Parties hereby submit this Joint Status  
3 Report and Joint Request to Extend Stay of Litigation.

4 On May 26, 2022, the Court stayed this litigation until November 26, 2022, to enable the  
5 Parties to engage in settlement negotiations. (ECF #61). Since that time, Plaintiffs the Department  
6 of Toxic Substances Control ("DTSC") and the Toxic Substances Control Account (collectively,  
7 "Plaintiffs") and Defendants<sup>1</sup> have continued their settlement discussions and have made  
8 significant progress toward presenting the Court with a proposed Consent Decree. The Parties  
9 have exchanged multiple drafts of settlement terms to globally resolve this litigation and the other  
10 pending cases between the Parties. To that end, the Parties have had multiple video meetings and  
11 conference calls and many email communications regarding the settlement terms. At present, the  
12 Parties are negotiating a very few remaining issues and are close to reaching an agreement-in-  
13 principle.

14 The result of the Parties' most recent conference call was a consensus that the latest draft  
15 summary of settlement terms represented significant and substantial progress since the last Joint  
16 Status Report filed with the Court on August 24, 2022 (ECF #64). As such, the Parties agreed that  
17 a joint request to the Court to extend the current stay, scheduled to expire on November 26, 2022,  
18 is necessary and appropriate. The Parties believe that a stay of the litigation for an additional 180  
19 days will enable the Parties to reach a resolution and lodge a proposed Consent Decree with the  
20 Court. Moreover, absent an extension, unnecessary litigation and a waste of the Court's and the  
21 Parties' resources will result, which may also divert from settlement efforts.

22 This additional time is necessary for the Parties to resolve the few remaining issues and to  
23 prepare the proposed Consent Decree. In addition, there are multiple parties involved in these  
24 negotiations. Approval of the proposed Consent Decree is required from several layers of upper  
25 management at DTSC and the decisionmakers in the management structure of the individual  
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27 <sup>1</sup> Exxon Mobil Corporation; E.I. DuPont de Nemours and Company, Inc.; Chevron  
28 U.S.A., Inc.; Chevron Oronite Company LLC; Shell Oil Company; Pacific Gas and Electric  
Company; Prologis, Inc.; FMC Corporation; Union Pacific Railroad Company; United States  
Steel Corporation; International Business Machines Corporation; and Bayer CropScience, Inc.

1 Defendants, all of whom are major corporate entities. A shorter stay of the litigation would risk  
2 the Parties not being able to complete and lodge with the Court a proposed Consent Decree,  
3 approved by all Parties, before the litigation resumes.

4 As part of their commitment to continue to make progress towards a potential settlement,  
5 the Parties agree to meet the following settlement negotiation deadlines, as may be necessary:

- 6 • December 23, 2022: Defendants to present Plaintiff with a draft Consent Decree<sup>2</sup>;
- 7 • January 27, 2023: Plaintiffs to respond to Defendants' draft Consent Decree;
- 8 • February 24, 2023, or another date mutually agreeable to the Parties: The Parties (through  
9 group representatives) to meet in-person or via video conference to attempt to resolve any  
10 remaining open issues regarding the draft Consent Decree; and
- 11 • March 17, 2023, or another date mutually agreeable to the Parties: The Parties to meet  
12 and confer on selecting a mediator and mediation date for any remaining open settlement  
13 terms or issues.

14 The Parties are also submitting status reports and requesting 180-day extensions of the  
15 stays of the litigation pending in the other federal courts hearing the matters involving the other  
16 three IT Landfills – Benson Ridge, Montezuma Hills, and Vine Hill. *California Dep't. of Toxic*  
17 *Substances Control, et al. v. Pacific Gas & Electric, et al.*, pending in the Northern District, Case  
18 No. 4:21-cv-07450-HSG (for the Benson Ridge IT Landfill); *California Dep't of Toxic*  
19 *Substances Control v. Chevron Oronite Company, et al.*, pending in the Eastern District, Case No.  
20 2-21-cv-01737-TLN-JDP (for the Montezuma Hills IT Landfill); and *California Dep't. of Toxic*  
21 *Substances Control, et al. v. Chevron U.S.A., Inc., et al.*, pending in the Northern District, Case  
22 No. 3-21-cv-07453-WHA. (for the Vine Hill IT Landfill).

23 There is also a related state court writ petition with upcoming deadlines regarding motion  
24 practice. *IT Sites Cooperating Joint Defense Group v. California Environmental Protection*  
25 *Agency, et al.*, Solano County Superior Court, No. FCS 056611. The parties to that state court  
26 action will also be seeking an extension of these deadlines on the same grounds as this stay

27 \_\_\_\_\_  
28 <sup>2</sup> The Parties will also continue to work diligently in good faith to resolve the remaining  
open issues to reach an agreement-in-principle.

1 extension request – *i.e.*, that substantial progress has been made on a comprehensive settlement,  
2 which would include resolution of that writ petition.

3 For that reason, the Parties respectfully request that the current stay be extended by 180  
4 days to May 25, 2023.

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6 *[signatures begin on following page]*  
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Dated: November 22, 2022

Respectfully submitted,  
  
ROB BONTA  
Attorney General of California  
  
*/s/ Kate M. Hammond*  
  
KATE M. HAMMOND  
Deputy Attorney General  
SARAH E. MORRISON  
Supervising Deputy Attorney General  
DONALD ROBINSON  
Deputy Attorney General  
*Attorneys for Plaintiffs Department of Toxic  
Substances Control and the Toxic Substances  
Control Account*

Dated: November 22, 2022

MORGAN, LEWIS & BOCKIUS LLP  
  
*/s/ Stephen E. Fitzgerald*  
(as authorized on November 22, 2022)  
  
Jeremy Esterkin  
Stephen E. Fitzgerald (admitted pro hac vice)  
*Attorneys for Defendant Exxon Mobil  
Corporation*

Dated: November 18, 2022

GLYNN, FINLEY, MORTL HANLON &  
FRIEDENBERG, LLP  
  
*/s/ Andrew T. Mortl*  
(as authorized on November 18, 2022)  
  
Morgan Lopez  
Andrew T. Mortl  
*Attorneys for Defendant E.I. du Pont de  
Nemours and Company*

Dated: November 18, 2022

BARG COFFIN LEWIS & TRAPP, LLP  
  
*/s/ Brian S. Haughton*  
(as authorized on November 18, 2022)  
  
Brian S. Haughton  
*Attorneys for Defendant Pacific Gas and  
Electric Company*

1 Dated: November 18, 2022

EDGCOMB LAW GROUP, LLP

2 /s/ John D. Edgcomb  
3 (as authorized on November 18, 2022)

4 John D. Edgcomb  
5 Attorneys for Stauffer Management Company  
6 LLC, as litigation agent for Defendant Bayer  
7 CropScience, Inc.

8 Dated: November 18, 2022

ROGERS JOSEPH O'DONNELL

9 /s/ Robert C. Goodman  
10 (as authorized on November 18, 2022)

11 Robert C. Goodman  
12 Attorneys for Defendant Chevron U.S.A. Inc.  
13 and Chevron Oronite Company LLC

14 Dated: November 21, 2022

FARELLA BRAUN + MARTEL LLP

15 /s/ Christopher Rendall-Jackson  
16 (as authorized on November 21, 2022)

17 Christopher Rendall-Jackson  
18 Robert L. Hines  
19 Attorneys for Defendant FMC Corporation

20 Dated: November 21, 2022

MANATT, PHELPS & PHILLIPS, LLP

21 /s/ Peter Duchesneau  
22 (as authorized on November 21, 2022)

23 Peter Duchesneau  
24 Attorneys for Defendant International Business  
25 Machines Corporation

26 Dated: November 21, 2022

LOEB & LOEB LLP

27 /s/ Albert M. Cohen  
28 (as authorized on November 21, 2022)

Albert M. Cohen  
Attorneys for Defendant PAC Operating  
Limited Partnership

1 Dated: November 22, 2022

DOWNEY BRAND LLP

2 /s/ Monica Browner  
3 (as authorized on November 22, 2022)

4 Monica Browner  
5 Steven H. Goldberg  
6 *Attorneys for Defendant Union Pacific*  
7 *Railroad Company*

8 Dated: November 22, 2022

EDLIN GALLAGHER HUIE + BLUM

9 /s/ Farheena A. Habib  
10 (as authorized on November 22, 2022)

11 Fred M. Blum  
12 Farheena A. Habib  
13 *Attorneys for Defendant United States Steel*  
14 *Corporation*

15 Dated: November 18, 2022

WILSON TURNER KOSMO LLP

16 /s/ Jonna D. Lothyan  
17 (as authorized on November 18, 2022)

18 Robin A. Wofford  
19 Jonna D. Lothyan  
20 *Attorneys for Defendant*  
21 *Shell Oil Company n/k/a Shell U.S.A., Inc.*

## CERTIFICATE OF SERVICE

Case Name: **CDTSC and the TOXIC  
SUBSTANCES CONTROL  
ACCOUNT v. EXXON MOBIL  
CORPORATION, et al.**

Case No. 2-21-cv-01739-KJM-JDP

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I hereby certify that on November 22, 2022, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**JOINT STATUS REPORT AND JOINT REQUEST TO EXTEND STAY OF  
LITIGATION BY 180 DAYS**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on November 22, 2022, at Los Angeles, California.

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Alixé C. Branch  
Declarant

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/s/ Alixé C. Branch  
Signature